

BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE

APPEAL NO. 09/2025 (WZ)

Bosco Cruz Fernandes

Alias Cruz Augustine Fernandes

...Applicant

Versus

Goa Coastal Zone

Management Authority & Ors

...Respondent

AFFIDAVIT-IN-REPLY ON BEHALF OF RESPONDENT

NO. 1 (GCZMA)

I, Shri Sachin Desai, major of age, holding the post of Member Secretary, Goa Coastal Zone Management Authority (“GCZMA”) i.e., Respondent No 1 herein, having office at 4th Floor Dempo Towers, Patto, Panaji, Goa, do hereby make solemn affirmation and state as under:

1. I say that I am holding the post of Member Secretary, GCZMA. I say that I am filing the present affidavit based on the records available with my office and that I am competent to depose in this case.

2. I say that I am filing the present Affidavit-in-Reply for the purpose of opposing the relief sought in the present appeal. Nothing in the aforementioned Appeal filed by the Appellant be deemed to have been admitted for mere want of specific denial. Nothing may be deemed to have been admitted for want of *traverse seriatim*. I crave leave of this Hon'ble Tribunal to file an additional Affidavit, if found necessary.

3. I say that the present appeal challenges the Order dated 21.10.2024 ("**Impugned Order**") passed by the answering Respondent. I say that *vide* the Impugned Order discharged the structures belonging to the Petitioner identified with alphabet A, B and L as per the site inspection report dated 28/07/2023. I say that the Impugned Order directs demolition of the illegal construction of the 2nd Floor of Structure A as shown in the Report/Plan dated 28/07/2023 and all the other structures in Survey No. 242/9 situated in Calangute Village, Bardez, Goa belonging to the Petitioner herein, as demarcated in the plan dated 28/07/2023 and 09/03/2023, as they were found to have been illegally



constructed. I say that the Impugned order was passed upon giving the Appellant an opportunity of being heard after following the principles of natural justice. I say that the Impugned order is a reasoned order.



Annexed hereto is a copy of Site Inspection Report dated 28/07/2023 alongwith photographs marked as “Annexure A”.

Annexed hereto is a copy of the Site Inspection Report dated 09/03/2023 alongwith photographs and a site plan prepared by the DSLR marked as “Annexure B”.

4. I say that as per CZMP 2011, Survey No. 242/9 of Village Calangute, Bardez, Goa (“**said Property**”) falls in CRZ-III (Partly NDZ, Partly 200m – 500m). I say that all reconstruction/ construction/ repairs/ renovation/ development from 500 mts of the Sea require prior permission/approval of the GCZMA under the CRZ Notification 2011.

5. I say that *vide* Show Cause Notice dated 29.01.2024, the Appellant was put to notice that a complaint dated 26/06/2018 was received by the Answering Respondent and that site inspections were conducted pursuant to the said complaint and that DSLR mapping had also been carried out. I say that the Appellant was informed that the perusal of the inspection reports revealed gross illegal construction resulting in violation of the CRZ Notifications. The violations noticed are enumerated under:

- A. Masonry structure made up of Sheets;
- B. Temporary structure with roof made up of sheets;
- C. Masonry structure made up of Sheets;
- D. Masonry structure with roof made up of Sheets with permanent plinth;
- E. (G+2) RCC structure, with permanent plinth;
- F. Ground structure partly RCC and masonry with permanent plinth;
- G. Masonry structure with roof made up of Sheets, with permanent plinth;
- H. Masonry structure with roof made up of Sheets, with permanent plinth;





- I. Temporary shed, roof made up of sheets with permanent plinth;
 - J. Masonry structure with roof made up of manglore tiles with permanent plinth;
 - K. Temporary shed;
 - L. Temporary shed;
 - M. Masonry structure, with permanent plinth;
 - N. Toilet 1;
 - O. Toilet 2;
 - P. Temporary structure made up of GI sheets;
 - Q. Masonry structure with roof made up of Manglore tiles, with permanent plinth.
 - R. Pump house;
6. I say that the Appellant herein submitted its reply before the GCMZA that the offending structures situated in the property bearing Survey No 242/9 of Village Calangute, Bardez, Goa are pre-1991 structures and that is why they bear a reflection in the survey records of the Gat Book maintained by the Talathi. Further, the Appellant also relied on agreement of sale dated 12/10/1998, Deed of Sale dated 05/04/2016 and permissions of repair and renovations

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issued on 10/09/1999, for structure identified as "A" in inspection report dated 28/07/2023.

7. I say that upon receipt of the Appellant's Reply, a comprehensive site inspection and plotting exercise was undertaken through the deployment of a technical team. Pursuant to such exercise, the said technical team has identified three structures which existed at the time of the promulgation of the Survey Records, and the same have been delineated in red in the sketch annexed hereto and prepared by the said team. The structures presently existing on site are delineated in black on the said sketch. The Answering Respondent further states that the structures existing at the time of the promulgation of the Survey Records do not correspond with, nor conform to, the structures currently situated on the subject property. Annexed hereto is a sketch prepared by the technical team which showcases the structures existing as on date on the said property, marked as "Annexure C".



8. I say that the Appellant relied upon the Agreement of Sale dated 12/10/1998 to allege that the G+2 in the said Property is the same structure mentioned in the Agreement of Sale dated 12/10/1998. I say that the Agreement of Sale dated 12/10/1998 mentions a house bearing House No. 6/172 in the Survey No. 242/9 of Village Calangute, which was agreed to be purchased by the Appellant however, it does not describe the house in any manner whatsoever. I say that the said Agreement of Sale does not mention that the structure is a G+2 structure, neither does it mention that the structure was constructed prior to 1991.

9. I say that the Appellant has failed to produce any cogent, reliable and convincing material/documents to show that the structures identified as "C", "D", "E", "F", "G", "H", "I", "J", "K", "M", "N", "O", "P" & "R" and the 2nd Floor of Structure identified as "A" in the Site Inspection Report dated 09/03/2023, are pre-1991 structures. I say that the Appellant is put to strict proof of the same. I say that the photographs forming part of the inspection reports



ostensibly showcase that the abovementioned structures are post 1991 structures.

10. I say that the Appellant has failed to produce any permission from the CRZ authorities with regards structures identified as "C", "D", "E", "F", "G", "H", "I", "J", "K", "M", "N", "O", "P" & "R" and the 2nd Floor of Structure identified as "A" in the Site Inspection Report dated 09/03/2023.

11. I say that in view of the, above the structures identified as "C", "D", "E", "F", "G", "H", "I", "J", "K", "M", "N", "O", "P" & "R" and the 2nd Floor of Structure identified as "A" in the Site Inspection Report dated 09/03/2023 are directed to be demolished vide the Impugned Order.

12. I say that in view of the above, the present appeal is liable to be dismissed.

13. I say that what has been stated in Paras 1 to 12 are true to my own knowledge and/or are based on documents/records available with the Respondent and the contents of the same



Site inspection report of an illegal constructions/operation of Guest House in Sy. No. 242/9 of village Calangute, Taluka Bardez, Goa.

Background :

The Office of GCZMA received complaint – dated 14/09/2022 from Sylvester D'Souza from Saunta Vaddo, Calangute, Bardez, Goa with regard to illegal constructions/operation of Guest House in Sy. No. 242/9 of village Calangute, Taluka Bardez, Goa by Mr. Bosco Cruz Fernandes, R/o. Cobra Vaddo, next to CSM resort, Calangute, Bardez, Goa.

Inspection and Observation:

Upon instruction from the Member Secretary GCZMA, a site inspection was scheduled on 28/07/2023 as per decided in the 350th minutes of meeting of GCZMA held on 20/07/2023 & was attended by Mr. Ganesh Velip, Expert Member (GCZMA), Miss. Bhargavi Kelkar, Engineer (GCZMA), Mr. Sakhil Naik, Field Surveyor (GCZMA), & Mr. Tukaram Kaskar, Field surveyor (GCZMA). At site, the complainant Mr. Sylvester D'Souza was present. Whereas, the respondent, Mr. Bosco Cruz Fernandes was also present. As per Form I & XIV, the names of the occupants seen are Alexinho Andrade, Cruz Agostinho Fernandes alias Cruz (Bosco) Augustine Fernandes alias Cruz Fernandes alias Cruz Salvador Fernandes alias Bosco Cruz Fernandes , Magdalena Fernandes alias Magdalena Mascarenhas.

The details of site inspection are as follows:

As per CZMP 2011, the above mentioned survey no.242/9 falls in CRZ-III (Partly NDZ, Partly 200m-500m) of Calangute village, Taluka Bardez Goa.

At time of inspection, few structures were observed and the same are listed as follows:

1. There exists a structure irregular shape, partly house with RCC slabs (G+2) plinth size (10.30m x 10.10m) approx. (A) and partly house ground floor with mangalore tiles roofing plinth size (16.05m x 11.60m) approx. (B) with partly RCC slabs. This is one complete house connected to each other. There is RCC internal staircase seen from outside to access above floors on the southern side.
2. There exists a masonry structure ground floor irregular shape, with plinth size (4.90m x 4.00m) approx. (C) covered with G.I. sheet roofing.

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3. There exists a masonry structure ground floor irregular shape, the plinth size (6.20m x 4.75m) approx. (D) and a temporary shed size (18.40m x 8.55m) approx. (E) which is entirely covered with Asbestos sheet roofing.
4. There exists a masonry structure ground floor, the plinth size (2.60m x 2.55m) approx. (F) covered with Asbestos sheet roofing. ✎
5. There exists a masonry structure ground floor, the plinth size (8.00m x 6.80m) approx. (G) which is covered with Asbestos sheet roofing and a temporary shed size (4.50m x 6.80m) approx. (H) which is covered with G.I. sheet roofing. ✓
6. The entire property has partly laterite masonry compound wall of length 62.30m approx. with 1.20m ht from G.L. approx. also having sliding gate front entrance. It is partly covered with cement pillars with green plastic net along the southern boundary of the property.
7. There exists two open wells and one septic tank in the property. ✎
8. Along the eastern boundary of the property adjacent to the sliding gate front entrance, there exists a masonry structure ground floor with plinth size (7.00m x 4.30m) approx. (I) and a masonry structure ground floor with irregular shape with the plinth size (14.50m x 10.00m) approx. (J) and temporary shed size (20.30m x 10.15m) approx. (K) which is entirely covered with G.I. sheet roofing. ✎
9. There exists a masonry structure ground floor with plinth size (14.50m x 9.40m) approx. (L) covered with mangalore tiles roofing.
10. There exists a house masonry structure ground floor with plinth size (3.80m x 3.20m) approx. (M) covered with mangalore tiles roofing.
11. There exists a temporary shed of size (18.80m x 5.00m) approx. (N) which is completely made of G.I. sheets and also covered with G.I. sheet roofing.
12. Site Photos are attached with the report. (Annexure I)

The plotting/mapping report is prepared with a sketch showing the tentative location of this above mentioned structures which is NOT TO SCALE.

Conclusion and Recommendation:

- 1) As per CZMP 2011, the above mentioned survey no. 242/9 falls in CRZ-III (Partly NDZ, Partly 200m-500m) of Calangute village, Taluka Bardez Goa.
- 2) As per the CRZ Regulation, permanent construction is permissible within the CRZ-III (200m-500m) area with max permissible coverage and F.A.R of 33% each, with proper permission from GCZMA.

- 3) At the time of inspection, it was noted that there exists few structures in the Sy. No. 242/9 under consideration of which structure details has been mentioned above in the report. At loco, in the presence of the complainant and respondent, the site measurements has been taken with the help of measuring tape and a sketch is prepared showing the tentative location of the structures in the said property.
- 4) This may be deliberated in the Authority meeting for a decision.


Mr. Ganesh Velip

(Expert Member, GCZMA)



Miss. Bhargavi Kelkar

(Engineer, GCMZA)



Mr. Sakhil Naik

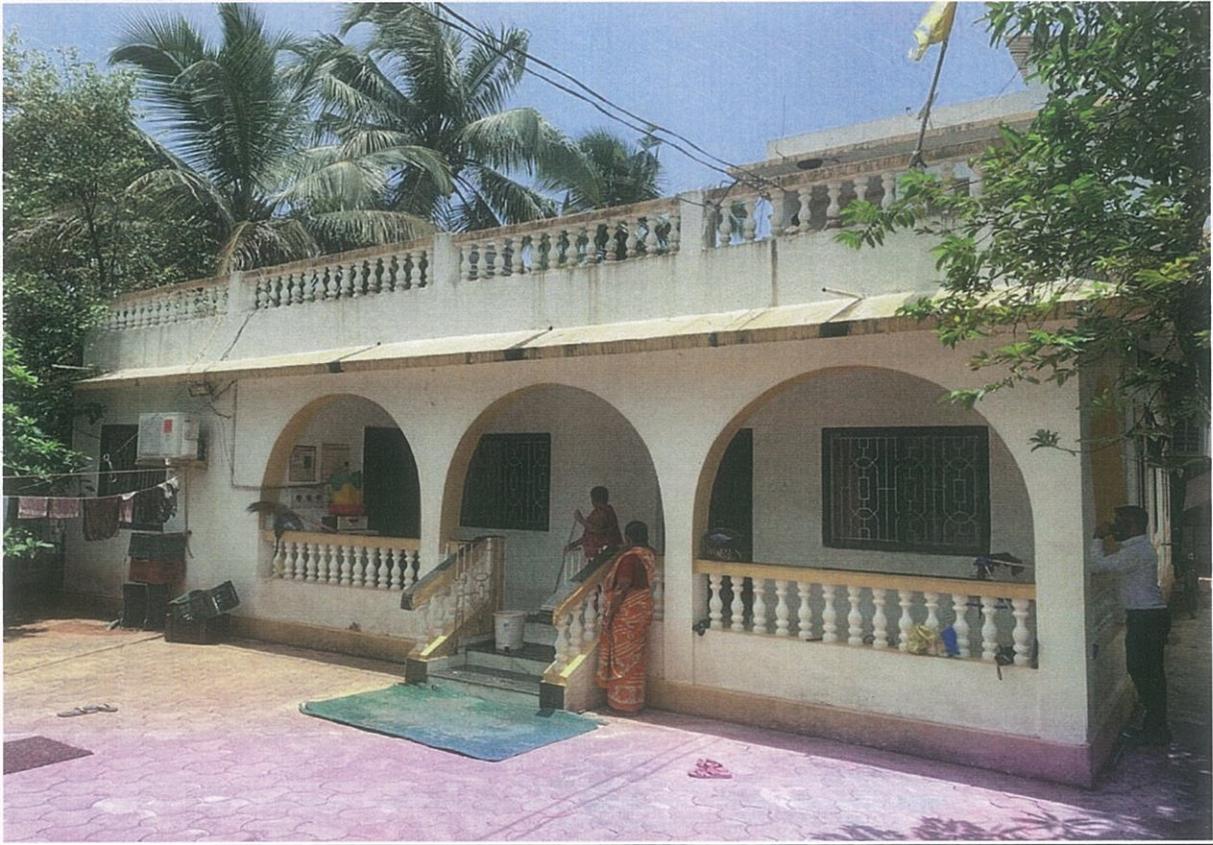
(F.S., GCZMA)



Mr. Tukaram Kaskar

(F.S., GCZMA)

ANNEXURE I



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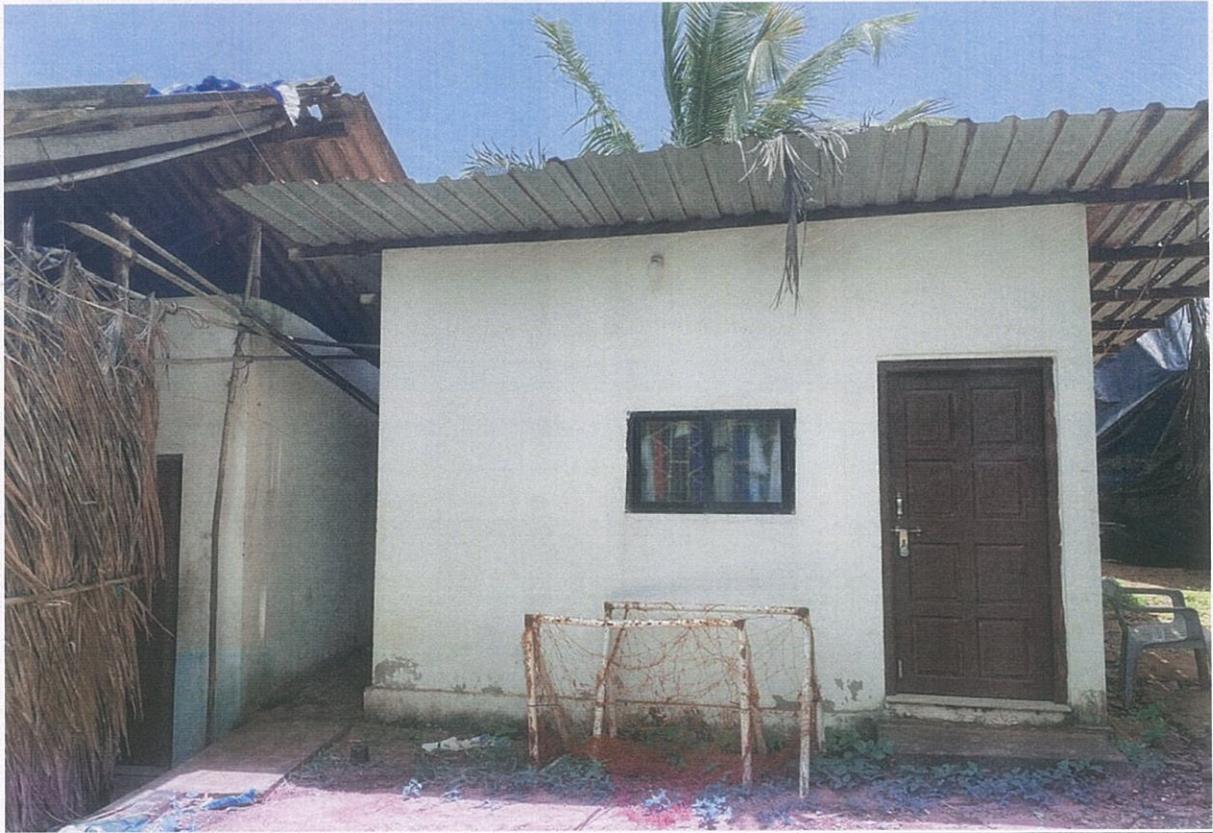
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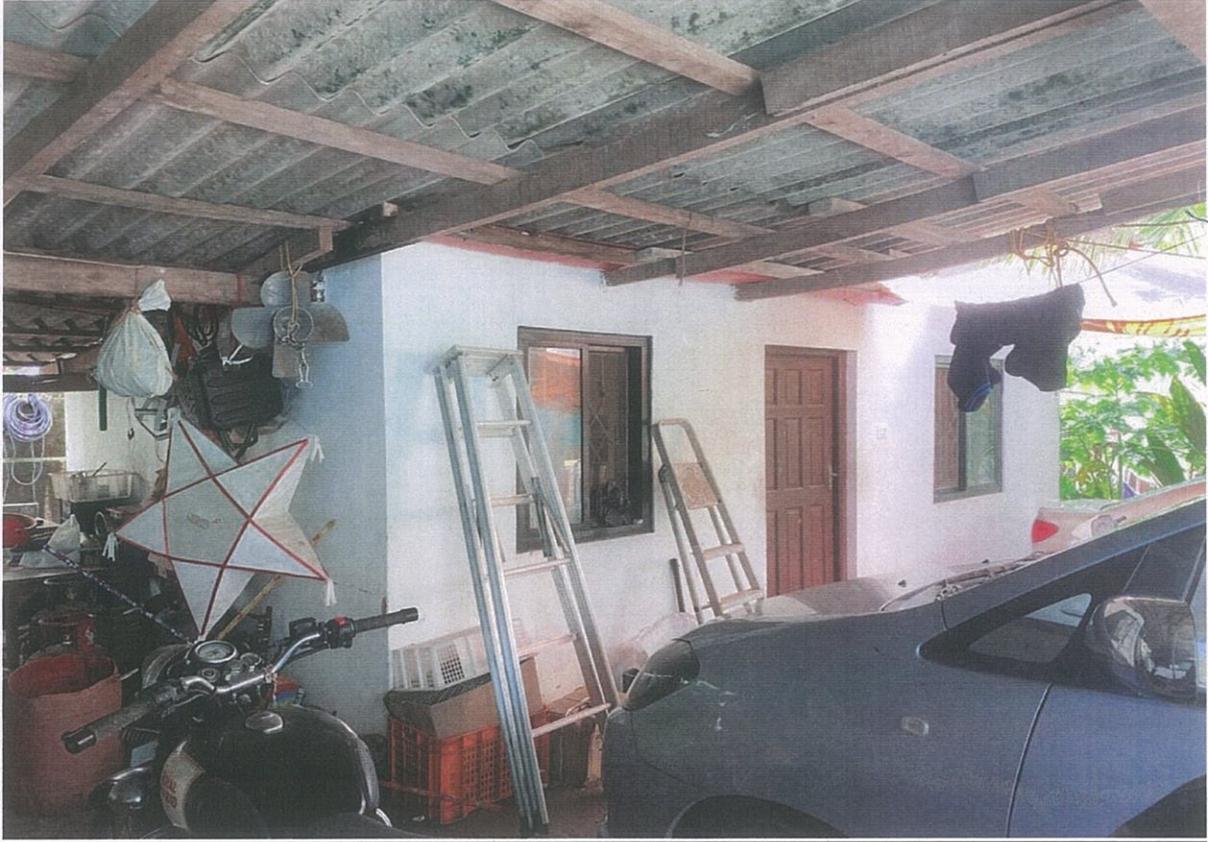
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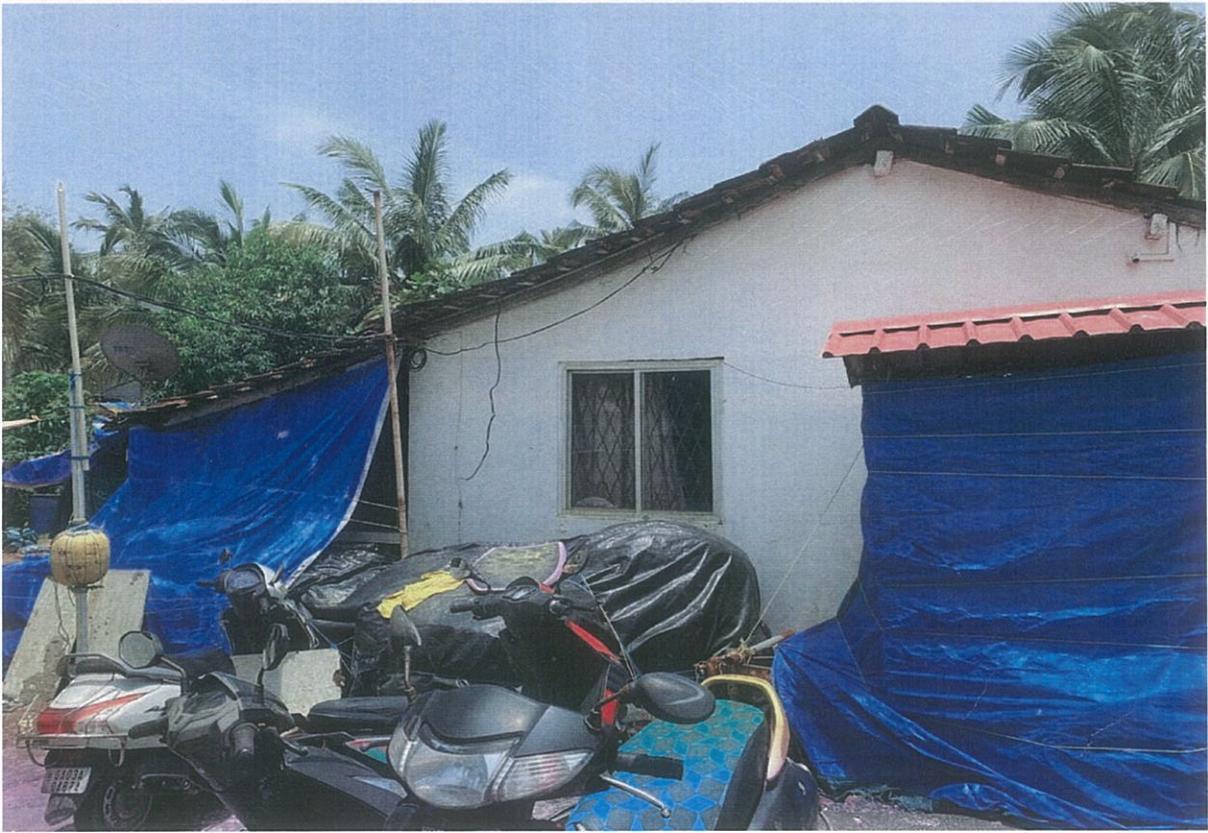
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Sakli

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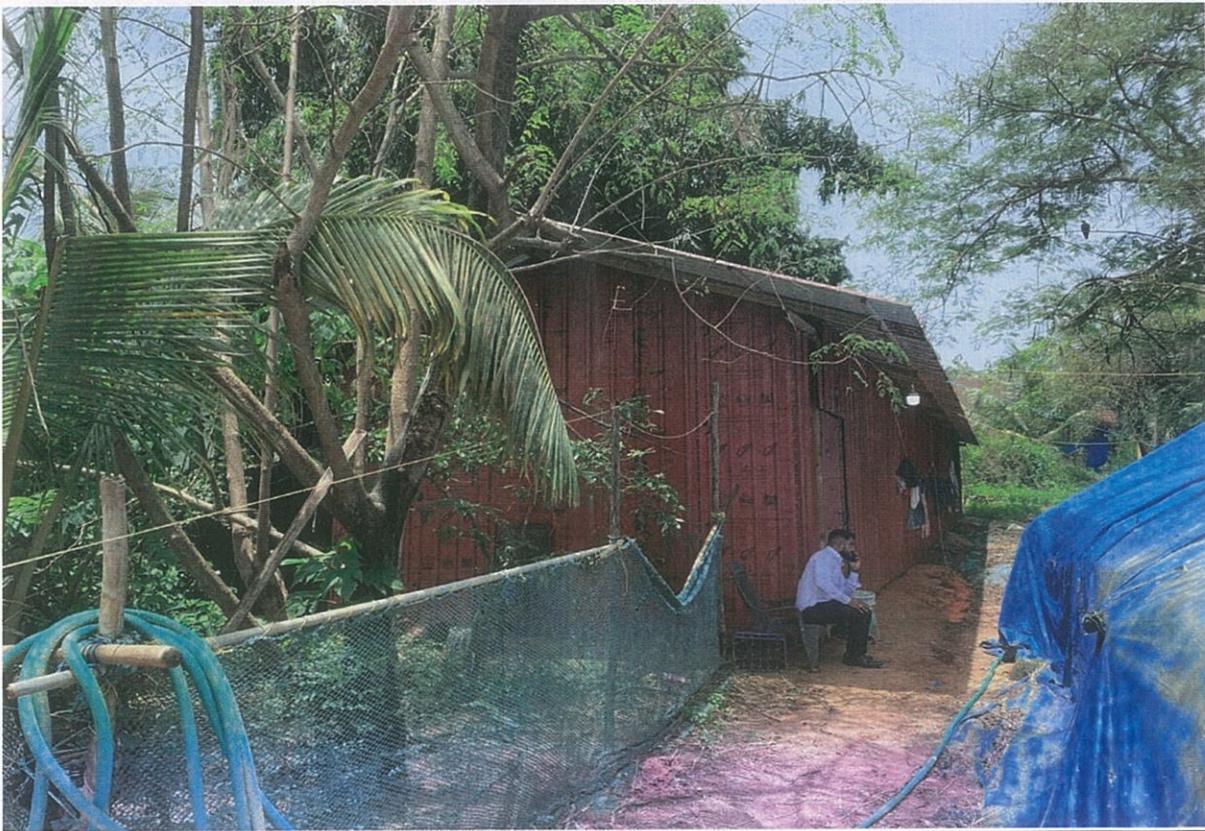
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Report of Site Inspection for illegal construction of a house in the property bearing sy.no. 242/9 Cobra vaddo, Calangute, Bardez Goa.

Background

The Office of GCZMA received complaint – dated 26/06/2018 from Mrs. Lily Andrade R/o H.No.7/18,Saunta Vado,calangute,Bardez-Goa with regard to illegal construction of a house in the property bearing Sy. No.242/9 at Cobra Vaddo calangute Bardez Goa by Mrs. Joanna Maria alias Maggie Fernandes, Mr. Joseph Anthony alias Anthon Fernandes both R/o H.No. 6/169, Cobra Vaddo, Calangute Bardez Goa and Mr.Cruz (Bosco) Augustine R/o 6/172A, Cobra Vaddo, Calangute Bardez Goa. The Hon'ble High Court in its order dated 07/02/2023 has given directions to inspect the site. So, a site inspection was fixed to see the site and verify the illegalities done at site.

Inspection and Observation

Upon instruction from the Member Secretary GCZMA, a site inspection was carried out by Mrs. Radha Rao, Expert Member (GCZMA), Mr. Keshav Naik Engineer (GCZMA) ,Mr. Vighnesh Naik Field surveyor (GCZMA) on 09/03/2023. At site, the Complainant was represented by Mrs. Joanita Mendonca (POA) and the Respondent Mrs. Joanna Maria alias Maggie Fernandes and Mr.Joseph Anthony alias Anthon Fernandes was represented by Lawrence Fernandes. Respondant Mr. Cruz (Bosco) Fernandes was present. The details of site inspection are as follows;

- i) The site is in Sy. No. 242/9 and it is lying within CRZ III (Partly NDZ, Partly 200-500 m) as per CZMP 2011 of Calangute village,Taluka Bardez Goa .
- ii) There exists multiple structures in survey no.242/9,details area as follows

| Sr.No. | Name of structure | Details of structure | Approximate plinth area of structures in sq.mtrs. | Remarks |
|--------|-------------------|---|---|--------------|
| 1 | A | Masonry structure with roof made up of Sheets. | 54.23 | ANNEXURE I |
| 2 | B | Temporary structure with roof made up of sheets | 194 | |
| 3 | R | Pump house | 6.5 | |
| 4 | C | Masonry structure with roof made up of sheets. | 34.51 | ANNEXURE II |
| 5 | D | Masonry structure with roof made up sheets,with permanent plinth. | 20.87 | |
| 6 | E | (G+2) RCC structure,With permanent plinth. | 107 | ANNEXURE III |
| 7 | F | Ground structure partly RCC and masonry,with permanent plinth. | 165 | ANNEXURE IV |

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| | | | | |
|----|---|--|--------|------------------|
| 8 | G | Masonry structure with roof made up of sheets,with permanent plinth. | 30.65 | ANNEXURE V |
| 9 | I | Temporary shed ,roof made up sheets,with permanent plinth. | 83.50 | ANNEXURE VI |
| 10 | H | Masonry structure with roof made up sheets,with permanent plinth. | 11.27 | ANNEXURE VII |
| 11 | J | Masonry structure with roof made up of manglore tiles,with permanent plinth. | 137.34 | ANNEXURE VIII |
| 12 | K | Temporary shed | 27.3 | ANNEXURE IX |
| 13 | L | Temporary shed | 31.30 | |
| 14 | M | Masonry structure,with permanent plinth. | 10 | Near structure L |
| 15 | N | Toilet 1 | 4 | |
| 16 | O | Toilet 2 | 4 | |
| 17 | P | Temporary structure made up of GI sheets | 98.28 | ANNEXURE X |
| 17 | Q | Masonry structure with roof made up of Manglore tiles,with permanent plinth. | 129.50 | ANNEXURE XI |

iii)There exists three open wells in said property.

iv)As per the respondant Mr. Cruz (Bosco) Fernandes structure (A,B,C,D,E,F,G,H,I,J,K,L,R) and two wells belongs to him.

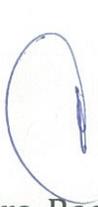
v)As per the respondant Mr. Lawrence Fernandes(representative of Mrs. Joanna Maria alias Maggie Fernandes and Mr. Joseph Anthony alias Anthon Fernandes) structure "Q" and one well belongs to them.

vi) Site Photos are attached with the report.

Conclusion and Recommendation

- i) The site is in Sy. No. 242/9 and it is lying within CRZ III (Partly NDZ, Partly 200-500 m) as per CZMP 2011 of Calangute village,Taluka Bardez Goa .
- ii) During site inspection it was observed that,the RCC Structures,Masonry structures,compound walls are permanent in nature .The legalities of the same need to beverified.
- iii) As per the CRZ Regulation, no construction is permissible within the NDZ area, except the repair or reconstruction of the old structure existing prior to 1991, with proper permission from GCZMA.
- iv) The detailed DSLR mapping may be done for exact measurement and dimensions of the structures in Sy. No. 242/9.
- v) This may be deliberated in the Authority meeting for a decision.

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13/04/23

Mrs. Radha Rao
Expert Member GCZMA



Mr. Keshav Naik
Engineer GCZMA



Mr. Vignesh Naik
Field Surveyor GCZMA

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ANNEXURE I



ANNEXURE II



no

Enaib

Arad

ANNEXURE III



ANNEXURE IV



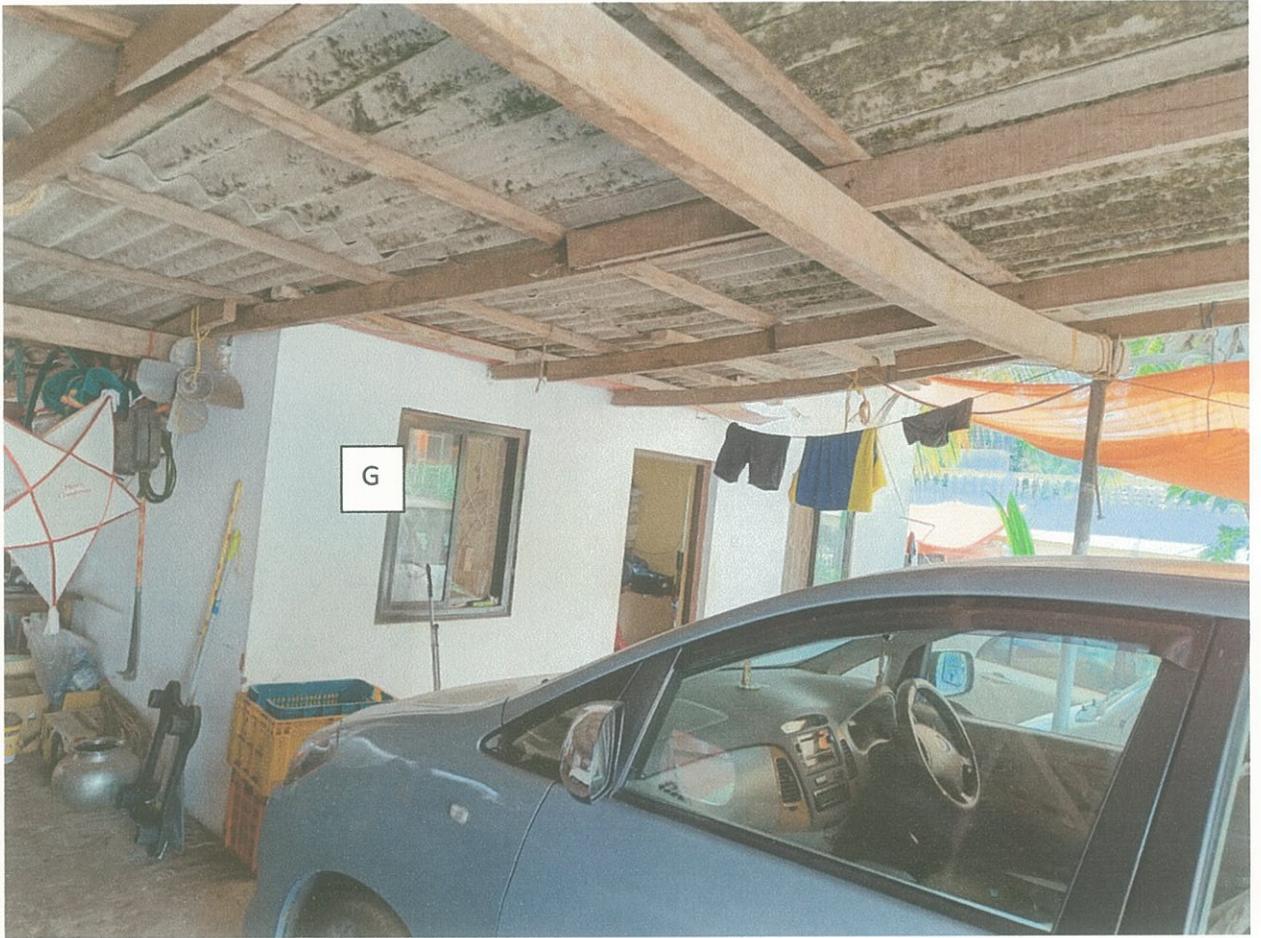
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ANNEXURE V



ANNEXURE VI



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Ennis

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ANNEXURE VII



ANNEXURE VIII



Pre

Kambit

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ANNEXURE IX



ANNEXURE X



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7/11/23

ANNEXURE XI



Q no
13/04/23
Rahul
Rahul



GOVERNMENT OF GOA
Directorate of Settlement and Land Records
PANAJI-GOA

SITE PLAN

Showing structures surveyed as per the notice of site inspection of Member Secretary, Goa Coastal Zone Management Authority, vide their letter No. GCZMA/N/ILLE/COMPL/18-19/83/1924 dtd.20/10/2023 in respect of S.No./ Sub Div. No. 242/9 of Village Calangute of Bardez Taluka.

Scale :1:1000



Scale :1:1000

VILLAGE :- CALANGUTE

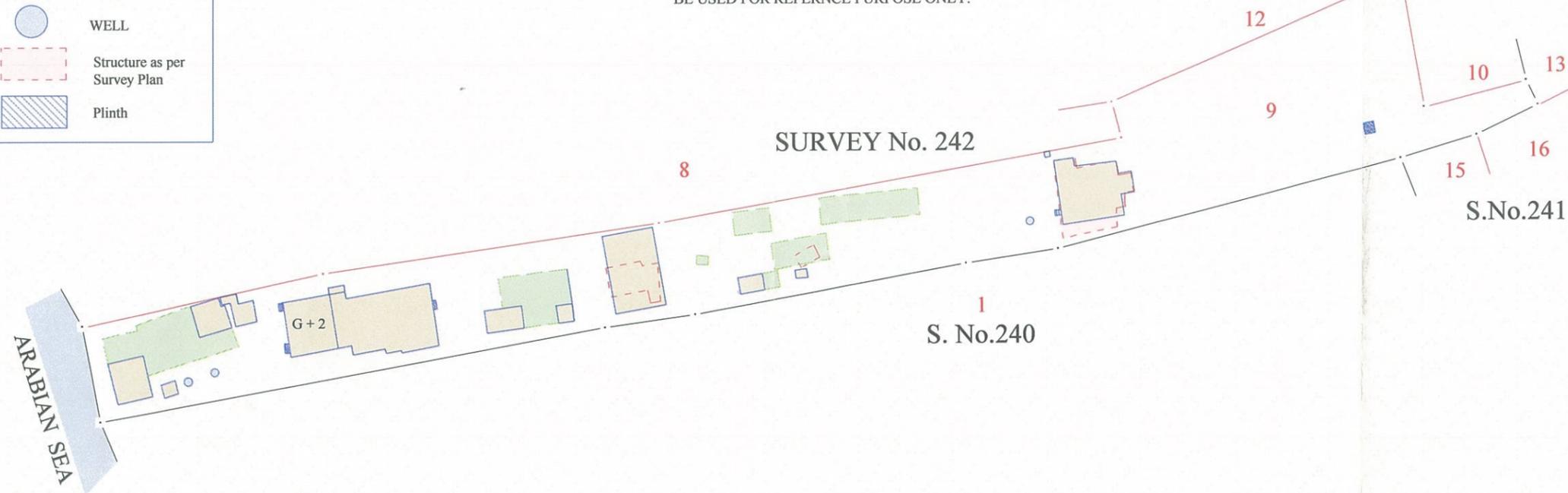
TALUKA :- BARDEZ

LEGEND

| | |
|--|------------------------------|
| | New structure |
| | Temporary Shed |
| | WELL |
| | Structure as per Survey Plan |
| | Plinth |

NOTE:-

THE LEGALITY / ILLEGALITY OF STRUCTURES SHOWN ON THIS PLAN IS NOT KNOWN AND THEREFORE THIS PLAN SHALL NOT BE USED FOR ANY PURPOSE SUCH AS DEVELOPMENT OF STRUCTURES, REVENUE SURVEY MATTERS, OBTAINING LICENSES, PERMISSIONS, CONVERSION OF LAND, ETC. THIS PLAN SHALL BE USED FOR REFERENCE PURPOSE ONLY.



Surveyed & Prepared by

Rupesh A. Shirgaonkar (F.S.)

Mandar M. Phadte (F.S.)

Seen by

Sameer Kambli
(Head Surveyor)

SKETCH

DRAWING SHOWING TENTATIVE LOCATION OF STRUCTURES AS THE SURVEY BOUNDARY STONES ARE NOT SEEN AND COULD NOT BE ASCERTAINED AT LOCO

NOT TO SCALE

(ALL DIMENSIONS IN METERS)

- STRUCTURES EXISTING AS PER SURVEY PLAN
- STRUCTURES SHOWN AS PER SITE CONDITION

